



August 24, 2000

Ms. Elaine Hengen
Assistant City Attorney
City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901-1196

OR2000-3235

Dear Ms. Hengen:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 138269.

The El Paso Police Department (the "department") received a request for all documents and reports pertaining to anti-abortion activity in the City of El Paso for a specified time period. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You state that the submitted information constitutes internal records and notations of a law enforcement agency that is maintained for internal use in matters relating to law enforcement and prosecution within the meaning of Government Code section 552.108(b). In relevant part, section 552.108 provides as follows:

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code § 552.108(b)(1). You explain that all the submitted information "consists of specific information gathered for use only by police officers in connection with potential law enforcement investigations or concerns or of specific law enforcement techniques and tactics relating to law enforcement." You further contend that release of the intelligence information would interfere with law enforcement objectives. After considering your arguments and reviewing the submitted information, we conclude that the information may be withheld under section 552.108(b)(1). The submitted information does not contain basic information subject to release under section 552.108(c); therefore, you may withhold the information in its entirety.

This letter ruling is limited to the particular records at issue in this request and to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink that reads "Julie Reagan Watson" followed by a long horizontal flourish.

Julie Reagan Watson
Assistant Attorney General
Open Records Division

JRW/pr

Ref: ID# 138269

Encl. Submitted documents

cc: Mr. James H. Holland, Jr.
Internal Vigilance
6044 Gateway East, Suite 611
El Paso, Texas 79905
(w/o enclosures)